

Exhibit E

Completed SMP Periodic Review Checklist

SHORELINE MASTER PROGRAM PERIODIC REVIEW

Periodic Review Checklist

This document is intended for use by counties, cities and towns subject to the Shoreline Management Act (SMA) to conduct the “periodic review” of their Shoreline Master Programs (SMPs). This review is intended to keep SMPs current with amendments to state laws or rules, changes to local plans and regulations, and changes to address local circumstances, new information or improved data. The review is required under the SMA at [RCW 90.58.080\(4\)](#). Ecology’s rule outlining procedures for conducting these reviews is at [WAC 173-26-090](#).

This checklist summarizes amendments to state law, rules and applicable updated guidance adopted between 2007 and 2019 that may trigger the need for local SMP amendments during periodic reviews.

How to use this checklist

See the associated *Periodic Review Checklist Guidance* for a description of each item, relevant links, review considerations, and example language.

At the **beginning of the periodic review**, use the review column to document review considerations and determine if local amendments are needed to maintain compliance. See WAC 173-26-090(3)(b)(i).

Ecology recommends reviewing all items on the checklist. Some items on the checklist prior to the local SMP adoption may be relevant.

At the end of your review process, use the checklist as a final summary identifying your final action, indicating where the SMP addresses applicable amended laws, or indicate where no action is needed. See WAC 173-26-090(3)(d)(ii)(D), and WAC 173-26-110(9)(b).

Local governments should coordinate with their assigned [Ecology regional planner](#) for more information on how to use this checklist and conduct the periodic review.

Prepared By	Jurisdiction	Date
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Row	Summary of change	Review	Action
2019			
a.	OFM adjusted the cost threshold for building freshwater docks	Current SMP has threshold at \$10,000	Updated to \$20,000 under section ICC 17.05A.130.E.2.d.viii.(2)
b.	The Legislature removed the requirement for a shoreline permit for disposal of dredged materials at Dredged Material Management Program sites (<i>applies to 9 jurisdictions</i>)	No open water disposal sites managed by DMMP in Island County	No change necessary
c.	The Legislature added restoring native kelp, eelgrass beds and native oysters as fish habitat enhancement projects.	Current SMP does not include a full list of fish enhancement project types, but does include list of “when all of the following apply” – the last WAC requirement which references RCW 77.55.181 was not included in the code	Updated ICC 17.05A.130.E.2.d.xvi to include, “(4) Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with local shoreline master programs”
2017			
a.	OFM adjusted the cost threshold for substantial development to \$7,047.	Current SMP has threshold at \$6,416	Updated to \$7,047 under section ICC 17.05A.130.E.2.d.i
b.	Ecology permit rules clarified the definition of “development” does not include dismantling or removing structures.	Current definition of development does not address dismantling or removing structures	Updated definition of development in ICC 17.05A.070 to add: “Development does not include dismantling or removing structures if there is no other associated development or re-development”
c.	Ecology adopted rules clarifying exceptions to local review under the SMA.	Current SMP does not address the exceptions provided under WAC 173-27-044.	Updated ICC 17.05A.050 to include the following: “F. Developments not required to obtain shoreline permits or local reviews 1. Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following: a. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW. b. Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit. c. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local review. d. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045. e. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW”
d.	Ecology amended rules clarifying permit filing procedures consistent with a 2011 statute.	Current SMP incorrectly defined, date of filing.	Updated ICC 17.05A.130.C.11 (now #12) to include the following: “After all local permit administrative appeals or reconsideration periods are complete and the permit documents are amended to incorporate any resulting changes, the County will mail the permit using return receipt requested mail to the Department of Ecology regional office and the Office of the Attorney General. Projects that require both Conditional Use Permits and or Variances shall be mailed simultaneously with any Substantial Development Permits for the project.

Row	Summary of change	Review	Action
			<p>a. The permit and documentation of the final local decision will be mailed together with the complete permit application; a findings and conclusions letter; a permit data form (cover sheet); and applicable SEPA documents.</p> <p>b. Consistent with RCW 90.58.140(6), the state’s Shorelines Hearings Board twenty-one day appeal period starts with the date of filing, which is defined below:</p> <p>(i) For projects that only require a Substantial Development Permit: the date that Ecology receives the County’s decision.</p> <p>(ii) For a Shoreline Conditional Use Permit (SCUP) or Shoreline Variance (SVAR): the date that Ecology’s decision on the CUP or Variance is transmitted to the applicant and the County</p> <p>(iii) For SDPs simultaneously mailed with an SCUP or SVAR to Ecology: the date that Ecology’s decision on the SCUP or SVAR is transmitted to the applicant and the County.”</p> <p>The following language was removed from ICC 17.05A.130.C.11 (new #13): “‘Date of filing’ of the county’s final decision on substantial development permits differs from date of filing for a conditional use permit or variance. In the case of a substantial development permit, the date of filing is the date the county transmits its decision on the permit to the Department of Ecology. In the case of a variance or conditional use permit, the “date of filing” means the date the Department of Ecology’s final order on the permit is transmitted to the county.”</p>
e.	Ecology amended forestry use regulations to clarify that forest practices that only involves timber cutting are not SMA “developments” and do not require SDPs.	Specific considerations for forest practices only involving timber cutting not addressed in current SMP.	<p>Updated ICC 17.05A.100.F (new item G) to include, “7. A forest practice that only involves timber cutting is not a development under the Act and does not require a shoreline substantial development permit or a shoreline exemption. A forest practice that includes activities other than timber cutting may be a development under the Act and may require a substantial development permit, as required by WAC 222-50-020”</p> <p>Added footnote 18 to forest practices in permitted use table in ICC 17.05A.080 which repeats language above,</p>
f.	Ecology clarified the SMA does not apply to lands under exclusive federal jurisdiction	Current SMP does not specify applicability to lands under exclusive federal jurisdiction	Updated ICC 17.05A.050.B to have subsection 1: “1. Requirements to obtain a shoreline substantial development permit, shoreline conditional use permit, shoreline variance, shoreline exemption, or other shoreline review to implement the Shoreline Management Act do not apply to lands under exclusive federal jurisdiction.”
g.	Ecology clarified “default” provisions for nonconforming uses and development .	Current SMP has tailored provisions for nonconforming use and development	No change necessary
h.	Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews .	Current SMP addresses periodic reviews in ICC 17.05A.130.D. Specifics regarding scope and procedures not addressed by code.	No change necessary
i.	Ecology adopted a new rule creating an optional SMP amendment process that allows for a shared local/state public comment period.	No impediments to the new joint process in current SMP	No change necessary
j.	Submittal to Ecology of proposed SMP amendments.	Current SMP does not include a description of the submittal process	No change necessary
2016			
a.	The Legislature created a new shoreline permit exemption for retrofitting existing structure to	Current SMP does not specifically call out retrofitting structures to comply with ADA as an exemption.	Updated ICC 17.05A.130.E.d.2 to included item (xix), “The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.” Also added a provision to new section on Shoreline Exemption Limited Reviews under ICC 17.05A.130.E.2.e.iii.(7)

Row	Summary of change	Review	Action
	comply with the Americans with Disabilities Act .		
b.	Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system.	Current SMP references wetland regulations of the CAO. Wetland regulations brought over from the CAO into the SMP. Island County utilizes a unique wetland rating system.	No change necessary
2015			
a.	The Legislature adopted a 90-day target for local review of Washington State Department of Transportation (WSDOT) projects.	Current SMP does not include specifications for review of WSDOT projects.	Updated ICC 17.05A.130.C to add item 8, "8. Special procedures for Washington State Department of Transportation projects. a. Permit review time for projects on a state highway. Pursuant to RCW 47.01.485, the Legislature established a target of 90 days review time for local governments. b. Optional process allowing construction to commence twenty-one days after date of filing. Pursuant to RCW 90.58.140, Washington State Department of Transportation projects that address significant public safety risks may begin twenty-one days after the date of filing if all components of the project will achieve no net loss of shoreline ecological functions."
2014			
a.	The Legislature created a new definition and policy for floating on-water residences legally established before 7/1/2014.	Current SMP does not include provisions for floating on-water residences.	Definition added to ICC 17.05A.070, "Floating on-water residence means any floating structure other than a floating home that is designed or used primarily as a residence on the water and has detachable utilities, and whose owner or primary occupant has held an ownership interest in space in a marina, or has held a lease or sublease to use space in a marina, since a date prior to July 1, 2014."
2012			
a.	The Legislature amended the SMA to clarify SMP appeal procedures .	Current SMP does not outline SMP appeal process	No change necessary
2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved federal wetland delineation manual .	Current SMP references wetland regulations of the CAO. Wetland regulations brought over from the CAO into the SMP and amended, rather than referencing.	Updated new section where wetland regulations brought over from Critical Areas Ordinance, rather than referencing. New ICC section 17.05A.090.C.18.b.i amended to include, "This determination shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplement."
b.	Ecology adopted rules for new commercial geoduck aquaculture .	Current SMP provisions compliant with updated geoduck aquaculture rules except for additional language mentioned in this table.	Updated ICC 17.05A.100.B.7 to include, "Any geoduck aquaculture operation that causes substantial interference with normal public use of the surface waters shall require a substantial development permit." Footnote 15 added to commercial aquaculture in permitted uses table in ICC 17.05A.080 which repeats the same language as above.
c.	The Legislature created a new definition and policy for floating homes permitted or legally established prior to January 1, 2011.	Current SMP does not mention floating homes	Definition of floating homes added to ICC 17.05A.070, "Floating home means a single-family dwelling unit constructed on a float, that is moored, anchored, or otherwise secured in waters, and is not a vessel, even though it may be capable of being towed."

Row	Summary of change	Review	Action
d.	The Legislature authorizing a new option to classify existing structures as conforming.	Item was discussed with Board and Planning Commission and not pursued.	No change necessary
2010			
a.	The Legislature adopted Growth Management Act – Shoreline Management Act clarifications.	Current SMP states, “6. Amendments or revisions to the Island County Shoreline Master Program, as provided by law do not become effective until approved by the Department of Ecology.”	Updated ICC 17.05A.130.D.6 to read, “6. Amendments or revisions to the Island County Shoreline Master Program, as provided by law, are effective 14 days from Ecology’s written notice of final action.”
2009			
a.	The Legislature created new “relief” procedures for instances in which a shoreline restoration project within a UGA creates a shift in Ordinary High Water Mark.	Current SMP does not include a provision for this relief.	Updated ICC 17.05A.110.B to add item 12, “The County may grant relief from shoreline master program development standards and use regulations resulting from shoreline restoration projects within urban growth areas consistent with criteria and procedures in WAC 173-27-215”
b.	Ecology adopted a rule for certifying wetland mitigation banks.	Current SMP addresses wetland mitigation banks but does not address this specific requirement.	Updated ICC 17.05A.090.C.10 to include, “Mitigation banks shall comply with the standards and procedures in RCW 90.84 and WAC 173-700.”
c.	The Legislature added moratoria authority and procedures to the SMA.	Moratoria not mentioned in current SMP.	Added moratoria authority and procedures language from RCW to 17.05A.130 under new item K, “Moratoria authority and requirements. 1. Island County has authority to adopt a moratorium control or other interim control on development under RCW 90.58.590. 2. Before adopting the moratorium must: a. Hold a public hearing on the moratorium or control; b. Adopt detailed findings of fact that include, but are not limited to justifications for the proposed or adopted actions and explanations of the desired and likely outcomes; c. Notify the department of Ecology of the moratorium or control immediately after its adoption. The notification must specify the time, place, and date of any public hearing; and d. Provide that all lawfully existing uses, structures, or other development shall continue to be deemed lawful conforming uses and may continue to be maintained, repaired, and redeveloped, so long as the use is not expanded, under the terms of the land use and shoreline rules and regulations in place at the time of the moratorium. 4. The public hearing must be held within sixty days of the adoption of the moratorium or control. 5. A moratorium or control adopted under this section may be effective for up to six months if a detailed work plan for remedying the issues and circumstances necessitating the moratorium or control is developed and made available for public review. 6. A moratorium or control may be renewed for one or more six-month period if Island County complies with the requirements in subsection (2) above before each renewal
2007			
a.	The Legislature clarified options for defining "floodway" as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA.	Island County does not have any floodways	No change necessary
b.	Ecology amended rules to clarify that comprehensively updated SMPs shall include a list and map of streams and lakes that are in shoreline jurisdiction.	Island County does not have any streams adequately sized to be jurisdictional. Island County does have shoreline	List of shoreline jurisdictional lakes added to 17.05A.060.E.2.b. “...to specifically include the following. (i) Deer Lake; (ii) Lone Lake; (iii) Goss Lake; (iv) Cranberry Lake; and (v) Kristoferson Lake.” No change necessary to address streams.

Row	Summary of change	Review	Action
		jurisdictional lakes, which were not specifically called out.	
c.	Ecology's rule listing statutory exemptions from the requirement for an SDP was amended to include fish habitat enhancement projects that conform to the provisions of RCW 77.55.181.	Current SMP addresses public or private fish habitat projects but does not include a direct reference to RCW 77.55.181.	Section 17.05A.130.E.2.d.xvi updated to add new item (4), "Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with local shoreline master programs" to exempt such projects from an SDP.